

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Simon Wang	Team: Squad #6	CCRB Case #: 201802560	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 03/15/2018 4:50 PM	Location of Incident: East 48th Street and Avenue K	Precinct: 63	18 Mo. SOL 9/15/2019	EO SOL 9/15/2019	
Date/Time CV Reported Mon, 04/02/2018 2:26 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 04/02/2018 2:26 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Raymond Russo	17553	959173	063 PCT
2. SGT George Taylor	2396	946312	063 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Ardit Ymeri	19585	959391	063 PCT
2. POM Mario Guerrero	06810	951796	063 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Raymond Russo	Abuse: Police Officer Raymond Russo searched the vehicle in which § 87(2)(b) and individuals were occupants.	
B.POM Raymond Russo	Abuse: Police Officer Raymond Russo damaged § 87(2)(b)'s property.	
C.SGT George Taylor	Abuse: Sergeant George Taylor issued a summons to § 87(2)(b)	
D.POM Raymond Russo	Abuse: Police Officer Raymond Russo issued a summons to § 87(2)(b)	

Case Summary

On April 2, 2018, § 87(2)(b) filed the following complaint online with the CCRB.

On March 15, 2018, at approximately 4:50 p.m., § 87(2)(b) husband, § 87(2)(b) was driving her to work in their vehicle along with two friends who were only identified as § 87(2)(b) and § 87(2)(b). They were pulled over at the intersection of East 48th Street and Avenue K in Brooklyn by PO Raymond Russo and Sgt. George Taylor of the 63rd Precinct. PO Russo searched the vehicle (**Allegations A: Abuse of Authority** – § 87(2)(g)). The glove compartment latch was allegedly damaged during the car search (**Allegation B: Abuse of Authority** – § 87(2)(g)). Nothing illegal was found during the search. § 87(2)(b) was issued a summons (**Board Review 1**) for failing to signal a lane change and the officers left (**Allegations C and D: Abuse of Authority** – § 87(2)(g)).

There was body worn camera video footage recorded during this incident. The full video referenced in this case can be found in IA #16 (**Board Review 22**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Raymond Russo searched the vehicle in which § 87(2)(b) and individuals were occupants.

§ 87(2)(g)

It is undisputed that PO Russo and Sgt. Taylor stopped § 87(2)(b) for failure to signal. It is also undisputed that PO Russo searched § 87(2)(b)'s vehicle, § 87(2)(g).

PO Russo stated that after obtaining § 87(2)(b)'s documents, he went back to his patrol car and checked § 87(2)(b)'s license and registration. He did not find any warrants and his intention was to give § 87(2)(b) a warning and send him on his way.

BWC footage shows that upon PO Russo's return to § 87(2)(b)'s vehicle, PO Russo held § 87(2)(b)'s license and registration out towards him and stated, "My man. You just didn't signal to the right. That's all. Alright?" § 87(2)(b) snatched the documents from PO Russo's hand. PO Russo responded by asking § 87(2)(b) why he snatched the documents from him and proceeded to ask him for his driver's license and to exit the vehicle. § 87(2)(b) complied (**Board Review 17**). PO Russo searched the vehicle, including the front and rear driver's side, the glove compartment, a backpack in the front passenger seat, and the trunk (**Board Review 18**).

In his CCRB statement, PO Russo offered two justifications for searching § 87(2)(b)'s car: § 87(2)(b)'s consent to search the car, and the odor of marijuana. PO Russo was inconsistent about when he first detected the odor of marijuana. PO Russo initially stated that after § 87(2)(b) gave verbal consent to search the car, he returned to the driver's side door and first smelled the odor of marijuana right before he began to search the car. Later in the interview, after

PO Russo was shown his BWC footage, he stated that he first smelled the odor of marijuana at an earlier point, which was when he first returned to the driver's side window to issue the warning to

§ 87(2)(b)

PO Russo's BWC footage shows that while in their patrol car, before PO Russo returned to § 87(2)(b)'s vehicle, Sgt. Taylor asked PO Russo, "Did you smell anything?" PO Russo replied, "No." Later in the conversation, Sgt. Taylor asked, "You smell anything?" PO Russo responded, "No. I mean I can go up to the car and just get a little bit closer, but right off the bat, didn't hit me at all." (Board Review 19)

Later in the video, after PO Russo ordered § 87(2)(b) out of the vehicle, PO Russo asked him if there was anything in the car and § 87(2)(b) replied that there was not. PO Russo replied, "Cause it does smell like a little weed in there alright?" § 87(2)(b) replied, "Nothing. On the camera, go do whatever the fuck you want to do." § 87(2)(b) then asked, "Is my license clean? My registration clean?" PO Russo stated, "Listen, the way you snatched this out of my hand..." § 87(2)(b) interrupted him and asked, "Yes or no?" PO Russo replied, "Yeah, I was going to give it to you. I was going to let you go. I was going to let you go and then you snatched it from my hand." PO Russo continued, "Alright my man. We'll settle this, don't worry. You gave me consent to search your car right?" § 87(2)(b) replied, "I'm not give you nothing." PO Russo stated, "Nah. You did. It's already on camera." § 87(2)(b) replied, "I'm not giving you nothing." PO Russo then stated, "Okay. It smells like weed in there." § 87(2)(b) replied, "I don't care what you say it smells like." PO Russo finally stated, "Okay. It smells like weed." PO Russo then walked to the driver's side of the vehicle and instructed the other occupants to exit the vehicle. He stated, "Listen. The way he snatched that out of my hand, I don't like that okay? There's no reason for that. Listen I was just about to let him go. Did you see that? I was just about to give it to him. So, we're going to have you on your way. I'm gonna have to ask you to step out alright? I'm sorry I'm going to have to make you a little later. I don't know why he's throwing a tantrum for. There's no reason for it." (Board Review 20) PO Russo then began to search the car in the manner previously described.

§ 87(2)(b) denied that his vehicle smelled of marijuana.

Sgt. Taylor stated that he did not recall whether he smelled the odor of marijuana. PO Mario Guerrero and PO Ardit Ymeri arrived on scene as PO Russo was arguing with § 87(2)(b) at the rear of the car. PO Guerrero stated that he approached within three feet of § 87(2)(b)'s car doors and detected an odor of marijuana. PO Ymeri stated that he remained at the rear of the vehicle, did not approach the car windows, and did not detect any odor of marijuana from his location.

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

Once police officers found a motorist's papers to be in order, the officers, without more, are obligated to issue the summons for the VTL infraction and allow the motorist to resume his journey. Absent probable cause or unequivocal consent, officers may not conduct a full-scale search of a vehicle during a traffic stop, once the underlying infraction had been addressed. People v. Barreras, 253 A.D.2d 369 (1998) (**Board Review 14**) The United States Supreme court found similarly in Rodriguez v. United States, 135 S. Ct. 1609 (2015) (**Board Review 16**), that officers are obligated to "diligently pursue" their investigation into the traffic infraction, and that absent probable cause of something else, authority for the traffic stop ends when tasks tied to the traffic infraction, such as "checking the driver's license, determining whether there are outstanding warrants against the driver, and inspecting the automobile's registration and proof of insurance" are completed. A traffic stop prolonged beyond that point is deemed unlawful.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation (B) Abuse of Authority: Police Officer Raymond Russo damaged § 87(2)(b)'s property.

It is undisputed that PO Russo was the only officer who entered § 87(2)(b)'s car. § 87(2)(b) claimed that after this incident, he found that his glove compartment latch was broken, and that he believed PO Russo broke it. The glove compartment was functional prior to

the car search. § 87(2)(b) did not see what PO Russo was doing inside the vehicle during the car search, and did not claim to have seen what was done to his glove compartment.

PO Russo denied knowingly damaging § 87(2)(b)'s glove compartment during the car search. PO Russo's BWC video showed that he entered the driver's door and reached towards the passenger side. Due to the angle of the camera as PO Russo was reaching, the video did not show what he did to the glove compartment. However, after first reaching, PO Russo removed the car keys from the ignition and reached towards the passenger side again with the car keys. (**Board Review 7**).

§ 87(2)(g)

Allegation (C) Abuse of Authority: Sergeant George Taylor issued a summons to § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Raymond Russo issued a summons to

§ 87(2)(b)

As seen in BWC footage, PO Russo and Sgt. Taylor were in their patrol car reviewing § 87(2)(b)'s documents when § 87(2)(b) exited his vehicle and complained about how long the officers were taking. Sgt. Taylor repeatedly told § 87(2)(b) through the patrol car's loudspeaker to wait in his vehicle; § 87(2)(b) eventually complied. After this occurred, Sgt. Taylor stated to PO Russo, "Now he's asking for a summons." Approximately a minute later, Sgt. Taylor said to PO Russo, "When you go up to him, to give it to him, if he starts bitching, or he's going to say 'name' or something, don't give it back to him. We'll write him a summons, if he's going to say, 'I need your name' or whatever." PO Russo replied, "Okay." (**Board Review 21**)

As discussed in Allegation A above, PO Russo then returned to § 87(2)(b)'s vehicle with the intention of issuing him a warning and not a summons until § 87(2)(b) snatched his documents out of PO Russo's hand. PO Russo then searched § 87(2)(b)'s vehicle with no contraband found and issued him a summons for failure to signal.

Once police officers found a motorist's papers to be in order, the officers, without more, are obligated to issue the summons for the VTL infraction and allow the motorist to resume his journey. People v. Barreras (**Board Review 14**) The United States Supreme court found similarly in Rodriguez v. United States, 135 S. Ct. 1609 (2015) (**Board Review 16**), that officers are obligated to "diligently pursue" their investigation into the traffic infraction, and that absent probable cause of something else, authority for the traffic stop ends when tasks tied to the traffic infraction, such as "checking the driver's license, determining whether there are outstanding warrants against the driver, and inspecting the automobile's registration and proof of insurance" are completed. A traffic stop prolonged beyond that point is deemed unlawful.

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Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 11**).
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- PO Raymond Russo has been a member of service for three years and this is the first CCRB complaint to which he has been a subject.
- Sgt. George Taylor has been a member of service for 11 years and has been a subject in four other CCRB complaints and 14 allegations, of which five were substantiated:
 - 201609694 involved substantiated allegations of Stop, Frisk and Search against Sgt. Taylor. The Board Recommended Command Discipline A and the NYPD imposed Formalized Training.
 - 201704208 involved substantiated allegations of detainment and improper issuance of a summons against Sgt. Taylor. The Board recommended Command Level Discipline and the NYPD imposed Formalized Training.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of September 7, 2018, the Office of the New York City Comptroller has no record of a Notice of Claim being filed in regards to this complaint (**Board Review 12**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 6

Investigator:	_____	<u>Inv. Simon Wang</u>	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date